

PROFFERS
GEORGELAS GROUP LLC
RZ 2010-PR-014-E

January 11, 2013

Pursuant to Section 15.2-2303(A) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owners and applicant, for themselves and their successors and/or assigns (hereinafter collectively referred to as the "Applicant"), hereby proffer that the parcel under consideration and shown on the Fairfax County 2012 Tax Maps as 29-3 ((1)) 63C (the "Subject Property") shall be in accordance with the following conditions if, and only if, rezoning application 2010-PR-014-E (the "Rezoning") is granted.

The Subject Property is part of a larger rezoning known as "Spring Hill Station" which includes four related components identified as A, B, D and E (collectively referred to as "RZ 2010-PR-014"). The Subject Property is the subject of RZ 2010-PR-014-E. Property identified as 2012 Tax Map 29-3 ((1)) 48D is the subject of RZ 2010-PR-014-A, which was previously approved. Property identified as 2012 Tax Map 29-3 ((1)) 60C is the subject of RZ 2010-PR-014-B, which was previously approved. Property identified as 2012 Tax Map 29-1 ((1)) 18C and 29-3 ((1)) 54A, 57, 57B, and 57G is the subject of RZ 2010-PR-014-D. RZ 2010-PR-014 is divided into three Neighborhoods referred to as 1, 2 and 3 and six areas identified as Areas A, B, D, E, F and G. The Subject Property is in Neighborhood 2 and is referred to as Area E.

GENERAL

1. Conceptual Development Plan. The Subject Property shall be developed in substantial conformance with the Spring Hill Station Demonstration Project Part E Conceptual Development Plan ("CDP") dated June 22, 2010 and revised through January 11, 2013, prepared by VIKI, Incorporated, WDG Architecture, PLLC, and ParkerRodriquez, Inc. The CDP includes two options; Option 1 represents the maximum office proposal and Option 2 represents the maximum, residential proposal. The Applicant reserves the right to develop in accord with either option or a combination of the two options. The proffered elements of the CDP are limited to the grid of streets, general location of the points of access, general location of the buildings, uses (i.e., office, residential, hotel and retail/service), building heights, amount, general location and quality of urban park land, and general quality and character of the streetscape. Other elements of the CDP may be adjusted or modified with approval of future Final Development Plans ("FDPs") in accordance with the provisions set forth in Sect. 16-402 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").
2. Minor Modifications. Minor modifications to the CDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP without requiring approval of a Conceptual Development Plan

Amendment ("CDPA") provided such changes are in substantial conformance with the CDP as determined by the Zoning Administrator and do not affect the proffered elements of the CDP identified in Proffer 1, pursuant to Par. 4 of Sect.16-403 of the Zoning Ordinance.

3. Umbrella Owners' Association or Equivalent. The Applicant shall cause the recordation of an umbrella owners association ("UOA") or the equivalent in the form of one or more reciprocal easement and/or joint maintenance and/or joint development agreements, and other governance documents as necessary (collectively referred to as "UOA or equivalent"), to provide for various proffer and maintenance obligations, including but not limited to, implementation of the TDM program, maintenance of the private streets and sidewalks, streetscapes and furnishings therein, publicly accessible park areas and any private utility systems. Such governance documents shall be submitted to the Office of the County Attorney to ensure they provide for the various proffers and maintenance obligations not otherwise covered by separate agreement with Fairfax County ("the County") and/or the Virginia Department of Transportation ("VDOT"). Said UOA or equivalent may be expanded to include other properties subject to RZ 2010-PR-014 as well as additional nearby properties.

PROPOSED DEVELOPMENT

4. Existing Development. The Subject Property is developed with the two existing office buildings which contain approximately 431,170 square feet, a structured parking garage and surface parking lots (collectively, the "Existing Development"). The Existing Development is shown on Sheet C-4 of the CDP and may remain in operation in its current form. In the event that only a portion of the Subject Property is redeveloped subject to an approved FDP and site plan, the portions of the Subject Property not subject to the FDP may continue in operation as shown on Sheet C-4. The Applicant may make minor modifications to the Existing Development without the need for a CDPA or FDP. The Applicant may secure site plan, subdivision and building permit approvals for, and make interior and exterior improvements to, the Existing Development shown on Sheet C-4 without triggering the requirement to reconstruct the areas around the buildings in conformance with the CDP or any approved FDP or request deferrals of street dedication, street construction, streetscape, sidewalk and trail construction, streetlights, providing Tysons PTC stormwater criteria, or other related improvements shown on the CDP. When Building E3 is submitted for FDP approval, the Existing Development (exclusive of the Building E4 site and Urban Park 9 site) shall also be submitted for FDP approval.
5. Proposed Development. The maximum gross floor area ("GFA") (gross floor area as currently defined in the Zoning Ordinance), permitted on the Subject Property is 1,083,170 square feet, including the Existing Development (the "Proposed Development"). Development of the Subject Property may include any use permitted in the Planned Tysons Corner Urban ("PTC") District, subject to the Use Limitations in Sect. 6-505 of the Zoning Ordinance and the limitations in the development tabulations on Sheet C-3A of the CDP and these Proffers. The primary uses of the Subject Property shall be office, hotel and multi-family residential dwellings, which may include accessory uses as defined by the Zoning Ordinance. The Retail/Service category provided in the

development tabulations may include any non-residential use permitted in the PTC District, subject to the Use Limitations in Sect. 6-505, or uses accessory to the primary use.

The general extent and location of all Retail/Service uses shall be provided with the submission of each FDP, and shall be subject to review and approval. The GFA allocated to the Retail/Service category in each building as shown in the development tabulations on Sheet C-3A of the CDP may be shifted between buildings and the overall GFA allocated to the Retail/Service category may be increased without the need for a PCA or CDPA as long as the proposed increase is shown on an approved FDP and the maximum GFA for individual buildings is not exceeded. Any increase in the GFA allocated to the Retail/Service category that results in in Retail/Service uses in a single building exceeding 58,000 square feet shall result in a decrease in the GFA allocated to office uses on the Subject Property equal to the Retail/Service uses above 58,000 square feet in an individual building.

Uses allowed by special exception or special permit in the PTC District may be authorized through a separate special exception or special permit process without the need for a PCA or CDPA, provided the use is in general conformance with the approved CDP and the applicable FDP.

6. Final Development Plans. FDPs approved for individual building sites on the Subject Property shall establish the primary use (based on the Option 1 or Option 2 CDP tabulations) and the maximum GFA for each building within the limits established by these Proffers and the CDP. The specific GFA for each building shall be established at final site plan. If the GFA approved with the FDP is less than the maximum shown on the CDP, the excess GFA under the selected use option may be utilized in another building or building(s) of the same use within the Subject Property, provided the excess GFA can be accommodated within the maximum building height(s) shown on the CDP and subject to approval of the applicable FDP(s) or FDPA(s) for the buildings transferring and utilizing the excess GFA. In addition, the following information shall be provided with each FDP not filed concurrently with this rezoning application.

- A. Overall Tabulation. A tabulation indicating the development status of all property subject to RZ 2010-PR-014 A, B, D and E to include a listing of all existing and proposed buildings, along with the GFA, uses and parking approved on the CDP, FDP and site plan as may be applicable. The tabulation shall identify the reassignment of any excess GFA (as compared with what was originally shown on the applicable CDP) and shall be updated with each subsequent FDP and site plan approved for the Subject Property. A similar tabulation shall be provided on all site plans for the Subject Property.
- B. Tree Canopy Calculation. A tabulation indicating the tree canopy calculations of all property subject to RZ 2010-PR-014 A, B, D and E to be updated with each subsequent FDPA and site plan approved for the Subject Property.

- C. TDM Supplement. A copy of the previous TDM Annual Report, if available, to determine progress toward attaining TDM goals and any planned modifications to the TDM program.
- D. Sight Distance. Vehicular sight distance lines at all intersections within, and adjacent to, the FDP area overlaid on the Landscape Plan as provided in Proffer 20D.
- E. Utilities. Approximate location of existing and proposed utilities to serve the area of the FDP including the location of the any utility vaults and maintenance points to stormwater management facilities overlaid on the Landscape Plan.
- F. Proposed Uses. A list of proposed uses and demonstration of how such uses meet the applicable "Use Limitations" of Section 6-505 of the Ordinance.
- G. Architectural Elements. Specific information on architectural elements as provided in Proffer 8.
- H. Build-to-Lines. Refinement of the build-to-lines based on proposed uses, location of possible outdoor dining areas, and identification of awnings and canopies that extend beyond the building zone, as provided in Proffer 9.
- I. Streetscape. A graphic depiction of, and any adjustments to, the activated streetscape elements as provided in Proffer 10 and refinement of, and adjustments to, streetscape elements as provided in Proffer 20.
- J. Garage Treatments. Proposed parking garage façade treatments as provided in Proffers 8 and 11.
- K. Landscaping. Detailed landscape plans as provided in Proffer 19.
- L. Streetscape Furnishings. Submission of a "Streetscape Furnishing and Materials Plan" as provided in Proffer 20.
- M. Interim Conditions. Identification of specific proposed interim conditions within the FDP area and outside the FDP area as provided in Proffer 21.
- N. Phasing. Identification of specific proposed phased improvements in accordance with Proffer 7 and those generally set forth on the phasing-related exhibits provided on Sheet A-4.0 of the CDP.
- O. Parking Spaces. Refinement of the number of parking spaces as provided in Proffer 33.
- P. Parks and Recreation. Specific park details, site amenities and substitute recreation facilities as provided in Proffer 46.

- Q. Residential Amenities. Specific facilities and amenities to be provided for each residential building
- R. Stormwater Management. Identification of specific stormwater management facilities and access points to underground vaults as provided in Proffers 20 and 53.
- S. Rights-of-way. Identification of proposed rights-of-way lines associated with public street.

If requested by the District Supervisor, individual FDPs for the Subject Property which are not concurrent with this original rezoning or filed in conjunction with a PCA shall be subject to review by the Board of Supervisors to determine if the FDP is in accordance with the approved CDP and complies with applicable zoning district regulations. The Applicant shall provide written notice to the District Supervisor upon initial submission of each FDP or FDPA application filed after approval of this original rezoning that is not filed concurrently with a PCA application, requesting a determination by the District Supervisor as to whether review by the Board of Supervisors is warranted.

- 7. Development Phasing. The Proposed Development includes five (5) buildings, which are identified on the CDP as Buildings E1 through E5. Buildings E3 through E5 are new buildings. Development of each new building may proceed in any order provided that each such building provides the phasing conditions depicted for such building on the CDP and that all proffers that apply to such building are addressed with the redevelopment of that building. Where a proffer establishes an obligation that applies to a building, reference to "Applicant" in such proffer shall mean the party undertaking the development of such building.

The Applicant shall construct the grid of streets and provide pedestrian improvements, public parks, private amenities and public facilities on the Subject Property in conjunction with the development of each new building in accordance with the phasing exhibits provided on Sheet A-4.0 of the CDP and as further described in these Proffers. In addition, interim improvements as outlined in Proffer 20 and as may be determined at time of FDP approval shall be provided commensurate with the construction of each building. Adjustments to the phasing may be approved with FDP approvals without the requirement for a PCA or CDPA, provided the adjustments do not materially adversely affect the other phases. For purposes of these Proffers "construct" shall mean that: 1) a committed road improvement is substantially complete and is available for use by the public for travel whether or not the improvement has been accepted for maintenance by the state, and 2) a committed publicly accessible park space improvement is substantially complete and open to use by the public for use whether or not the improvement has been accepted by the County or FCPA.

ARCHITECTURAL DESIGN

8. Building Design. The architectural treatment of all buildings within the Proposed Development shall create a sense of identity and place, and shall create human scale through the use of unifying elements such as materials, textures, color, window treatments, decorative details, lighting, and landscaping. Buildings shall be designed with high quality architecture and building materials that are typically used on the exterior of Class A office buildings and residential, retail and hotel buildings of a similar quality. FDPs shall specify design information on building materials, architecture, parking garage and loading space treatments, and specific features designed to activate streetscapes as described in Proffer 10. A minimum of 10 percent (10%) of all dwelling units shall be designed and constructed with some Universal Design features as determined by the Applicant to promote visitability.
9. Build-to-Lines. Build-to-lines ("BTL") have been established as depicted on Sheets C-6 and C-6A of the CDP, to create an urban, pedestrian-oriented environment where buildings are located close to the street and pedestrian/streetscape areas are located between the buildings and the streets. In general, building facades are intended to be configured in such a way as to provide a continuous street wall along this line, but modifications to either side of the BTL shall be permitted, provided such modifications are in general conformance with the CDP and are shown on an approved FDP. Awnings and other architectural canopies attached to the building frontage that project out from the BTLs shall not extend beyond the building zone, except as may be shown on an approved FDP. At the time of FDP approval, the Applicant shall identify possible locations along the street level for expanded areas for outdoor dining adjacent to cafes and restaurants and shall provide appropriate building zones for such uses.
10. Activated Streetscapes and Ground Floor Elements. The ground floors of Buildings E3, E4 (Option1) and E5 (Option1) shall be designed and constructed with ground floors having an average floor to floor height of 16 feet to accommodate potential non-residential uses designed to activate the streetscape. In addition, the Applicant shall provide for a hierarchy of activated streetscapes throughout the Subject Property as delineated on Sheet L-10 of the CDP and described below. The specific activation elements to be utilized for each building shall be graphically depicted on the FDP for review and approval.
 - A. Secondary Pedestrian Corridors. These areas are designed to accommodate moderate pedestrian activity, providing access to the Tysons-Spring Hill Road Metro Station (the "Metro Station") for walkers from the Subject Property and beyond and accommodating access to a variety of uses on the Subject Property. Secondary Circulation Zones shall generally incorporate the following elements, which may be adjusted with approval of an FDP:
 - (i) Where the ground floors of new buildings incorporate non-residential uses, functioning entry doors into such applicable uses shall be provided with a maximum separation of 75 feet or less, unless a greater separation is needed to accommodate larger tenant spaces or as may be permitted by the Zoning Administrator. Should the requirements of a larger tenant not accommodate multiple entries with a maximum spacing of 75 feet, the

design of the façade shall incorporate glazed elements no more than 20 feet apart that are a minimum of 48 square feet in area.

- (ii) A minimum 40% of the area of the street front ground floor facades of such buildings shall be constructed with glazed windows and doors or other transparent materials.
- (iii) In residential buildings that do not incorporate non-residential uses on part or all of the ground floors, the building design of the primary facades shall incorporate, to the degree feasible, recreational and amenity spaces on the ground floor with a minimum of 40% of the ground floor façade constructed with glazed windows and/or doors or other transparent materials, and/or incorporate entries in to individual dwelling units from the street level. If residential units have direct access to the streetscape from an individual unit, design features shall be employed to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).
- (iv) Parking structures along the ground floor facades of buildings should be minimized, but where they occur, screening composed of architectural systems designed to restrict views into the garage spaces from street level shall be applied, or the general façade detailing of the building above may be continued to the ground plane.
- (v) Loading/trash/service areas along Secondary Circulation Corridors shall be screened from public view through the use of roll down doors or similar treatment.

B. Tertiary Pedestrian Corridors. These areas are designed to accommodate modest pedestrian activity making connections to less intense areas or through alleys. Tertiary Circulation Zones, not located along private alleys, shall incorporate the following elements:

- (i) Where the ground floors of new buildings incorporate Non-Residential Uses, a minimum 25% of the area of the ground floor facades of such buildings shall be constructed with glazed windows and doors or other transparent materials.
- (ii) In residential buildings that do not incorporate Non-Residential Uses on part or all of the ground floors, efforts shall be made to incorporate, recreational and amenity spaces on the ground floor with appropriate transparency and/or incorporate entries into individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall utilize design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).

- (iii) Parking structures along the ground floor facades of buildings should be minimized, but where they occur, screening composed of architectural systems designed to restrict views into the garage spaces from street level shall be applied, or the general façade detailing of the building above may be continued to the ground plane.
- (iv) Access to parking garages and loading/trash/service areas may be provided along tertiary circulation zones and from the adjacent private alleys; loading/trash/service areas along tertiary circulation corridors shall be screened from public view through the use of roll down doors or similar treatment

11. Parking Structures. To further the goals of the Comprehensive Plan, above grade parking structures shall incorporate uses or screening at the ground level in keeping with Proffer 10, so as to provide a pleasant and attractive design/experience along the streetscape. In addition, one or more of the following techniques shall be employed to screen garage areas above the street level:

- A. Inclusion of an active layer of occupied space;
- B. Application of architectural screening materials that may include, but not be limited to, metal framing systems with inserted panels of wire mesh, metal, glass or other materials, and precast concrete or masonry spandrels designed to minimize views into the garage spaces from street level;
- C. Continuation of the general façade detailing of the tower above down to the top of the retail level storefront; or
- D. Extension of retail signage and architectural expressions above the retail level to provide a variety of storefront experiences, as may be permitted by the Zoning Ordinance or by an approved Comprehensive Sign Plan.

Parking structure design features shall be depicted on the FDP for review and approval.

12. Building Height. The final height for each building and specific steps in building height, including parking podia, shall be determined at the time of site plan or building permit approval, but shall not exceed the maximum building heights shown on the CDP, as measured from average grade. Building and podium heights may be less than the maximum heights shown on the CDP, provided the building retains a similar urban form to that shown on the CDP or the FDP.

Structures that are excluded from the maximum height regulations as set forth in Sect. 2-506 of the Zoning Ordinance may be constructed to a height not to exceed thirty (30) feet from the roof level of the top floor of the building. All building penthouses and rooftop structures shall be integrated into the architecture of the building. The height and extent of any roof top penthouse shall be provided at FDP.

13. Telecommunications Equipment. Telecommunications equipment may be placed on the proposed buildings' rooftops. Any such facilities must comply with the applicable requirements of the Zoning Ordinance and be screened and/or setback sufficiently from the perimeter of the roof and penthouse such that they are not visible from the surrounding streets. Other screening measures may be used such as including the facilities as part of the architecture of the buildings, utilizing compatible colors, or employing telecommunication screening material and flush mounted antennas. Telecommunications equipment may also be architecturally integrated onto the facades of the building where necessary to ensure on-street and/or open space coverage. In addition, the Applicant shall provide for an additional conduit in its utility plans to accommodate future fiber and/or telecommunication connections on the Subject Property.
14. Fire Marshal. The Applicant has coordinated the layouts depicted on the CDP with the Fire Marshal. Further changes to the CDP and future FDPs shall be permitted without the requirement for a CDPA in response to the review of site plans by the Fire Marshal, including adjustments to the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, provided such modifications are made in consultation with the Fairfax County Department of Planning and Zoning ("DPZ"), FCDOT, and the Office of Community Revitalization ("OCR") and are in substantial conformance with the intent of the CDP, future FDPs and these Proffers.

BUILDING PRACTICES

15. Non-Residential Building Certifications.
 - A. The Applicant shall include, as part of the building plan submission for any new non-residential building to be constructed on the Subject Property, a list of specific credits within the project's registered version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Core and Shell (LEED®-CS) rating system, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicant and Fairfax County), that the Applicant anticipate attaining.

Except as otherwise provided below in Paragraph E as an alternative, a LEED or equivalent-accredited professional (the "LEED-AP") who is also a professional engineer or architect shall provide certification statements at the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED-CS Silver certification of the building. At the time of building plan review, the LEED-AP shall also submit a statement detailing the expected building permit submission timelines to determine which building plan approval is expected to be final.
 - B. The Applicant shall designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by

the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

C. Prior to the final building plan approval for the building to be constructed, the Applicant shall:

- (i) Submit documentation, to the Environment and Development Review Branch of DPZ, regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-CS Silver certification.
- (ii) Execute a separate agreement and post a "green building escrow" in the form of cash or a letter(s) of credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual (PFM), in the amount of \$2.00/square foot of GFA, as shown on the approved site plan. This green building escrow shall be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-CS Silver certification, by the USGBC, under the project's registered version of the LEED-CS rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The provision to the Environment and Development Review Branch of DPZ of documentation from the USGBC that each building has attained LEED-CS Silver certification will be sufficient to satisfy this commitment.

D. At the time LEED-CS Silver certification is demonstrated to the Environment and Development Review Branch of DPZ, the escrowed funds and/or letter(s) of credit shall be released to the Applicant.

If the Applicant provides to the Environment and Development Review Branch of DPZ, within three (3) years of issuance of the final Non-RUP for the building, documentation demonstrating that LEED-CS certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED-CS Silver certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives.

If the Applicant fails to provide, within three (3) years of issuance of the final Non-RUP for the building, documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED-Silver certification or demonstrating that the building has fallen short of LEED-CS Silver certification by three (3) points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, that USGBC completion of the review of the LEED-Silver certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

- E. As an alternative to the actions outlined in the Paragraphs A, C and D above, the Applicant may choose at its sole discretion to pursue a certification higher than LEED-CS Silver, in which case the LEED-AP will provide certification statements at the time of building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-CS Gold certification.

Prior to final building plan approval for the building to be constructed, the Applicant shall submit documentation, to the Environment and Development Review Branch of DPZ, regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-CS Gold certification. Under this alternative, the Applicant is not required to provide a "green building escrow" unless the Applicant fails to provide the above referenced documentation that the building is anticipated to attain LEED-CS Gold certification.

Prior to final bond release, the Applicant shall submit documentation to the Environment and Development Review Branch of DPZ, confirming the LEED certification received.

16. Residential Building Certifications.

- A. The Applicant shall include, as part of the building plan submission for the residential building to be constructed on the Subject Property, a list of specific credits within the project's registered version of the U.S. Green Building Council's Leadership in Energy and Environmental Design—New Construction (LEED®-NC) rating system, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicant and Fairfax County), that the Applicant anticipates attaining.
- B. In addition, the Applicant shall designate the Chief of the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ) as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility

for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

- C. Except as otherwise provided below as an alternative, a LEED or equivalent-accredited professional ("LEED-AP") who is also a professional engineer or licensed architect will provide certification statements at the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED-NC certification of the project. At the time of building plan review, the LEED-AP will also submit a statement detailing the expected building permit submission timelines to determine which building plan approval is expected to be the final building plan approval.
- D. Prior to final building plan approval, the Applicant will execute a separate agreement and post, for each building, a "green building escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual ("PFM"), in the amount of \$2.00/square foot of GFA. This green building escrow will be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-NC certification, by the USGBC, under the project's registered version of the LEED-NC rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The provision to the Environment and Development Review Branch of DPZ of documentation from the USGBC that each building has attained LEED-NC certification will be sufficient to satisfy this commitment. At the time LEED-NC certification is demonstrated to the Environment and Development Review Branch of DPZ, the escrowed funds shall be released to the Applicant.

If the Applicant provides to the Environment and Development Review Branch of DPZ, within three (3) years of issuance of the final RUP for the building, documentation demonstrating that LEED-NC certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED-NC certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County (the "County") and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

If the Applicant fails to provide, within three (3) years of issuance of the final RUP for the building, documentation to the Environment and Development Review Branch of DPZ demonstrating attainment of LEED-NC certification or demonstrating that the building has fallen short of LEED-NC certification by more than three (3) points, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the Environment and Development Review Branch of DPZ, that USGBC completion of the review of the LEED-NC certification application has

been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.

- E. As an alternative to the actions outlined in the paragraphs B and C above, the Applicant may choose at its sole discretion to pursue a certification higher than LEED-NC, in which case a LEED or equivalent-accredited professional will provide certification statements at the time of building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-NC Silver certification.

Prior to final building plan approval for the building to be constructed, the Applicant shall submit documentation, to the Environment and Development Review Branch of DPZ, regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-NC Silver certification. Under this alternative, the Applicant is not required to provide a "green building escrow" unless the Applicant fails to provide the above referenced documentation that the building is anticipated to attain LEED NC Silver certification.

Prior to final bond release, the Applicant shall submit documentation to the Environment and Development Review Branch of DPZ, confirming the LEED certification received.

- 17. Sustainable Energy Practices. To promote efficient, renewable and sustainable energy practices, the Applicant shall provide in newly constructed buildings:
 - A. Electric Vehicle Charging Infrastructure. Each parking garage shall initially be constructed with a minimum of one (1) electric vehicle recharging station that serves two (2) parking spaces and infrastructure (such as conduit) to facilitate additional future recharging stations.
 - B. Shared Energy. For any site plan that includes more than one building, provide an assessment of the potential, within the area subject to the site plan, of shared energy systems, including but not limited to combined heat and power (CHP) (co-generation), micro-CHP, distributed energy resources, and district heating and/or cooling, and, if a shared energy strategy will not be pursued, provide a narrative discussion regarding the reason(s) for this outcome. At a minimum, the Applicant shall ensure that a utility sleeve through the foundations of the proposed buildings, are sized to accommodate a pipe/facility, a maximum of 12 inches in diameter, allowing potential future energy sharing or alternate energy sources.
 - C. Energy and Water Data. To the extent there are master electric, gas and water meters for entire buildings, upon request by the County the Applicant shall

provide to the County aggregated non-proprietary energy and water consumption data, as practicable, for the each building and the entire Subject Property.

18. Bird-Friendly Design Elements. In an effort to reduce bird injury and death due to in-flight collisions with buildings, the Applicant shall include one or more bird friendly design elements, as determined by the Applicant in the architectural plans of each new building on the Subject Property. The bird friendly design elements may include, but not be limited to, the use of color, texture, opacity, patterns, louvers, screens, interior window treatments, or ultraviolet materials that are visible to birds, the angling of outside lights, curbing of excessive or unnecessary night-time illumination in commercial buildings, reduction of bird attracting bird vegetation, the use of decoys and breaking of glass swaths. Nothing herein shall require the Applicant to obtain a bird-friendly LEED credit. Upon the issuance of a building permit for the building, the provisions of this Proffer shall be deemed satisfied to such building.

SITE DESIGN

19. Landscaping. The CDP includes a conceptual landscape plan for the Subject Property consisting of an overall plan and details regarding streetscapes, plazas, publicly accessible park areas including courtyards and private amenity areas. As part of subsequent FDP approvals, more detailed landscape plans for each building phase shall be provided in general conformance with the concepts included on Sheets L-6 through L-9 with adjustments permitted so long as the quantity and quality of the landscaping provided and the function of the space remains consistent with that shown on the CDP. Such plan shall include the location of all known utilities and sight distance requirements overlaid on the planting plan.

As part of the site plan submission for each building phase, the Applicant shall submit to the Urban Forestry Management Division ("UFMD") of the DPWES for review and approval a detailed landscape plan that is in substantial conformance with the quantity and quality of plantings and materials landscaping shown on the approved FDP, and shall include, among other things, irrigation information, design details for tree wells and other similar planting areas on structures and along streets. These details shall include the composition of planting materials, methods for providing suspended pavement over tree root zones to prevent soil compaction, and methods for ensuring the viability of plantings on structures.

20. Streetscaping. Streetscaping shall be installed on the Subject Property as conceptually illustrated on Sheets L-1 through L-4. Streetscape elements shall include: a landscape amenity panel located immediately behind the face of curb; a clear pedestrian sidewalk adjacent to the landscape amenity panel; and a building zone between the pedestrian sidewalk and the face of the building that is designed to allow access to the building and/or additional landscaping adjacent to residential uses and also storefront browsing, outdoor display, outdoor dining, and similar uses adjacent to Retail/Service uses. Streetscaping elements may be adjusted at the time of FDP approval provided the quality of the streetscape and minimum clear pedestrian sidewalks are consistent with that shown on the CDP.

A. Street Trees. Tree planting sites are set forth on the CDP, subject to revision as may be approved on the FDP or at site plan review by the UFMD. Revisions may be necessitated to accommodate bus stop shelters, clear zones, and other similar requirements and shall not require a CDPA or FDPA. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor the design and inspect the planting of the street trees and shall notify UFMD in writing or by electronic mail no later than three business days prior to tree pit construction to allow for County inspection. Where minimum planting widths of eight (8) feet are not provided, alternative measures either as identified in the Tysons Urban Design Guidelines (endorsed by the Board of Supervisors of January 24, 2012) (the "Tysons Urban Design Guidelines") or as found acceptable to UFMD, shall be used to satisfy the following specifications for all planting sites:

- (i) A minimum of 4 feet open surface width and 16 square feet open surface area for Category III and Category IV trees, with the tree located in the center of the open area.
- (ii) A minimum rooting area of 8 feet wide (may be achieved with techniques to provide un-compacted soil below hardscape areas within the pedestrian realm), with no barrier to root growth within four feet of the base of the tree.
- (iii) A minimum soil depth of four (4) feet as measured to the shallow most point of the tree pit as shown in the tree planting details found on Sheet L-7 of the CDP.
- (iv) Soil volume for Category III and Category IV trees (as defined in Table 12.19 of the PFM) shall be 700 cubic feet per tree for single trees. For two trees planted in a contiguous planting area, a total soil volume of at least 600 cubic feet per tree shall be provided. For three or more trees planted in a contiguous area, the soil volume shall equal at least 500 cubic feet per tree. A contiguous area shall be any area that provides root access and soil conditions favorable for root growth throughout the entire area. Soil volumes as listed above may be reduced to a minimum of 400 cubic feet per tree where necessary, such as where paving above rooting zones is necessary to accommodate pedestrian traffic or where utility locations preclude greater soil volume.
- (v) Soil specifications in planting sites shall be provided in the planting notes to be included in all site plan submissions.
- (vi) All shade trees shall be a minimum of 3 to 3.5 inches in caliper at the time of planting; all flowering trees shall be a minimum of 2 inch caliper at the time of planting; and all new evergreen trees shall be a minimum of eight (8) feet in height at the time of planting.

- (vii) Trees zones shall be installed with a fully automatic drip irrigation system.
 - (viii) It is expected that street trees will have to be planted within existing utility easements. The Applicant shall replace any street trees on-site or along its street frontages that are removed for repairs or improvements in those easements. Should replacement of such trees be required of the utility or others under another agreement, this requirement shall not apply to the Applicant.
- B. Non-Invasive Plant Materials. Invasive species, as defined by the Fairfax County PFM, shall not be used within the streetscape and landscaped open space areas.
- C. Utility Locations. Utilities, including, but not limited to water, sanitary sewer and storm sewer utility lines, shall be installed within the street network to the maximum extent feasible as determined by DPWES or shall be placed in locations that do not conflict with the landscaped open space areas and streetscape elements shown on the CDP and/or subsequent FDP as determined by DPWES. If there is no other option, utilities may be placed within open space or streetscape areas provided that the long-term health of trees and other plantings is ensured by the provision of sufficient soil volume as shown on the CDP, as determined by the UFMD. A conceptual utility plan shall be overlaid on the landscape plan submitted in the FDP. Adjustments to the type and location of plantings shall be permitted to avoid conflicts with utilities and other site engineering considerations. If at the time of site plan approval, street trees shown on the FDP are in conflict with existing or proposed utilities and alternative locations for the street trees satisfactory to UFMD cannot be accommodated, the Applicant shall modify the location of utilities to ensure that the trees shown on the FDP can be provided.

Maintenance access points to SWM Facilities and electric vaults beneath the streetscape shall be located outside of the clear pedestrian walkway zone of the streetscape to the extent feasible. If the access points must be located in the walkway zone, they shall be designed as a lift out panel with the same paving materials as the walkway (subject to ADA requirements), be flush with the walkway, and meet ADA accessibility requirements. These maintenance access points shall be shown on each FDP.

- D. Sight Distance Considerations. Sight distances and anticipated road design speeds shall be depicted on the Landscape Plan submitted with each applicable FDP to demonstrate that the locations of all proposed street trees are viable. If determined at the time of site plan review that street tree locations conflict with sight distance requirements, the Applicant shall investigate whether limited pruning or minor adjustments to the locations of street trees will alleviate sight distance concerns. In the event VDOT does not approve the tree locations even after the changes anticipated above, the Applicant shall be permitted to relocate the affected street tree without the need for confirmation from DPZ, subject to approval by UFMD. If the deleted street tree(s) result in a tree canopy below 10%

on the Subject Property, the street tree(s) must be accommodated in another location on the Subject Property, as approved by DPZ in consultation with UFMD.

- E. Streetscape Furnishings and Materials and Lighting. Unified and high quality streetscape materials shall be provided and may include, but not be limited to, unit pavers, seat walls, tree space edging, lighting, traffic signal poles, benches, trash receptacles and other hardscape elements. A Streetscape Furnishing and Materials Plan shall be provided as part of all FDPs. These plans shall include general product information and approximate locations of furnishings and materials to be located in the streetscape between the building face and the curb, and in other public realm open spaces and shall ensure that the proposed furnishings do not conflict with sight distance requirements. Materials, furnishings, and lighting shall be compatible with those already identified in the Tysons Corner Urban Design Guidelines for the Tysons West area, as may be amended and or modified, and shall be coordinated with any streetscape design efforts put forth by the Tysons Partnership, but shall not be subject to approval by Tysons Partnership.

All streetscape lighting shall be energy efficient. All on-site, outdoor and parking garage lighting shall not exceed that permitted under the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance, as may be amended. The same or similar street lights shall be used consistently throughout the Proposed Development and be selected from those listed in the Tysons Urban Design Guidelines, or other lights as may be approved by DPZ and OCR. All parking lot and building mounted security lighting shall utilize full cut-off fixtures. Recessed lighting shall be directionally shielded to mitigate the impact on adjacent properties.

- F. Signage and Wayfinding. Signage for the Subject Property shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance. Alternatively, the Applicant may seek approval of a Comprehensive Sign Plan ("CSP"). The placement of all signage on existing/planned public streets is subject to VDOT review and/or approval. Wayfinding signage and elements shall be coordinated with the Tysons Partnership so to facilitate a consistent wayfinding and signage system throughout the district, but shall not be subject to approval by Tysons Partnership. Wayfinding shall provide direction to locations of prominent attractions, parks, cultural arts destinations, and other public amenities.

- G. Tysons Urban Design Guidelines. The Applicant shall utilize and follow the Tysons Urban Design Guidelines in the preparation of the streetscape design provided on FDPs. In any instances an inconsistency exists between the Tysons Urban Design Guidelines and the approved CDP/FDP and/or these Proffers, the approved CDP/FDP and these Proffers shall govern.

H. Maintenance. The Applicant or UOA shall maintain and replace in-kind all pedestrian realm elements within the Proposed Development. The pedestrian realm includes all areas between the back of curb and the building zone whether located within the public right-of-way or on private land with public access easements. The Applicant or UOA shall enter into the appropriate agreement, in a form approved by the Office of the County Attorney, with the County (or other public entity, as needed) to permit the Applicant to perform such maintenance. An alternative maintenance agreement, such as a Business Improvement District, may be entered into upon written agreement of both the County and the Applicant without the requirement for a PCA. Maintenance commitments include, but are not limited to:

- (i) All plantings including trees, shrubs, perennials, and annuals;
- (ii) All associated irrigation elements;
- (iii) All hard surfaces;
- (iv) All streetscape furnishings including benches, bike racks, trash and recycling receptacles and non-standard structures;
- (v) All lighting fixtures;
- (vi) All non-VDOT standard sign posts, traffic signal poles, pedestrian signal poles, mast arms, signal heads and control boxes;
- (vii) Snow removal;
- (viii) Leaf removal;
- (ix) Trash, recycling and litter removal;
- (x) Decorative retaining walls;
- (xi) Special drainage features, such a Low Impact Design facilities; and
- (xii) All urban park amenities including horticultural care, maintenance of all water features, irrigation, lighting, furnishings, paving, and art.

Phasing of streetscaping shall occur in the context of individual phases as provided in Proffer 7. As determined at the time of FDP approval, where the final streetscape design cannot be fully implemented during certain phases of development, the Applicant shall provide interim streetscape improvements as described in Proffer 21.

21. Interim Conditions and Standards. Due to the size of the Proposed Development and the time anticipated for its build-out, phased redevelopment may result in various interim conditions on the Subject Property. At the time of FDP submission, the Applicant shall identify the specific proposed interim conditions within the FDP area and outside the

FDP area and shall ensure such conditions provide reasonable pedestrian connections, vehicular circulation and access, temporary streetscaping and landscaping, public park treatments, and screening/treatment of exposed/partially complete above grade parking structures.

- A. If an interim condition/phase includes partial demolition of an existing structure, the FDP for that phase shall include all or a portion of the existing structure as necessary to ensure revisions to parking and on-site circulation for the existing structure are adequate.
- B. If interim improvements not located on the Subject Property are contemplated with any FDP, such FDP shall specify how and when such improvements are to be constructed. In the event the Applicant is unable to acquire the right-of-way and/or easements necessary to construct such interim improvement through a cooperative agreement with the owners, the Applicant shall request in writing that Fairfax County acquire the easements or rights-of-way by means of its condemnation powers as described in Proffer 55. At the time of FDP approval, it shall also be determined what course of action shall be required of the Applicant should the County elect not to use, or is unsuccessful in its attempt to use, its condemnation powers.
- C. Interim conditions shall comply with the following general standards provided that the improvements are acceptable to Fairfax County, VDOT, and all other utility companies as may be appropriate:
 - (i) Construction of interim sidewalks a minimum of a five (5) feet in width and installation of interim street lights along the interim sidewalks, the selection of which shall be approved with the applicable FDP, as needed to ensure a safe, convenient pedestrian path to the Metro Station.
 - (ii) Installation of street trees, with a minimum size of 2 inch caliper, approximately every 50 feet, to the extent feasible as determined by UFMD based on existing conditions and utility easements. Interim street tree planting shall not be required to meet the minimum planting width/area standard for permanent street trees.
 - (iii) Provision of interim designs for publicly accessible open spaces will include interim landscaping, pedestrian pathways, seating, signage, lighting and recreational facilities as determined at FDP.
 - (iv) Provision of peripheral and interior parking lot landscaping in accordance with Article 13-203 of the Zoning Ordinance for interim surface parking lots, unless waived or modified at the time of FDP or site plan approval.
 - (v) Application of a screening system (which may be removable) where above grade garage structures that will be interior when later phases are complete are exposed at phase lines. This screening system shall be applied to all levels above grade and shall be composed of an architecturally designed

system that may reflect basic architectural lines of the permanent facades, and that shall partially obscure the garage view from outside the garage until the next phase is constructed. The use of temporary art works as a part of the screening system shall also be considered as part of the interim screening system. The specific screening system to be utilized for each building shall be determined at the time of FDP approval and graphically depicted on the FDP. Alternate temporary garage screening may be approved with FDP approval.

- (vi) Grading and seeding of areas on the Subject Property where existing improvements are removed to accommodate a portion of the Proposed Development, and are not scheduled to commence construction within 12 months.
- (vii) Where appropriate, provision of attractive temporary construction fencing, which may include public art, signage or wayfinding elements. Signage shall be in keeping with Article 12 of the Zoning Ordinance or alternatively in accordance with an approved Comprehensive Sign Plan.

TRANSPORTATION IMPROVEMENTS

22. Grid of Streets. For the purposes of these Proffers, Greensboro Drive and Broad Street shall be considered to run east-west and Spring Hill Road and Logan Street shall be considered to run north-south. The Applicant shall construct and open for use to the public a proposed grid of streets as generally located and depicted on Sheets C-6 through C-8 of the CDP and as set forth in these Proffers. The functional classification of those roadways comprising the grid of streets is summarized below:

Street	Classification
Greensboro Drive	Avenue
Spring Hill Road	Avenue
Broad Street	Collector
Logan Street	Service Alley (private)

A. Right-of-Way.

- (i) The Applicant shall dedicate right-of-way along the Subject Property's frontage for each of the public streets listed above to the adjacent property line and to a point inclusive of the landscape amenity panel and the sidewalk or to such standard as may be approved on the FDP. The deed of dedication shall include a requirement that the area of the landscape amenity panel/sidewalk, exclusive of the building zone, be utilized for public purposes limited to streetscape improvements, sidewalks, pedestrian access, underground utilities, traffic signal poles, traffic-related and wayfinding signage, bus stops, bus shelters and vehicular ingress and egress to adjacent properties. Should the County not agree with the inclusion of this requirement, the Applicant shall dedicate and convey in fee simple right-of-way measuring 18 inches from the proposed face of the curb line.
- (ii) The Applicant shall work diligently with VDOT and Fairfax County during the FDP and site plan approval processes to ensure that the streets and/or the area of the landscape amenity panel/sidewalk can be accepted as public streets. The Applicant shall dedicate and convey in fee simple right-of-way including the area of the landscape amenity panel/sidewalk to the Board of Supervisors at the time of site plan approval, with the following exceptions:
 - a. If at the time of site plan approval it is determined that stormwater management facilities, electric vaults or other similar facilities proposed to be located beneath the landscape amenity panel/sidewalk will prevent VDOT and/or Fairfax County from accepting the landscape amenity panel/sidewalk within the right-of-way, the Applicant shall provide dedication measuring 18 inches from the proposed face of curb line and shall reserve for

potential future dedication the landscape amenity panel and sidewalk areas. A temporary public access easement in a form acceptable to the County Attorney shall be recorded over the reserved landscape amenity panel/sidewalk areas until such time as such areas are dedicated. This reservation area shall include easements that allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicant shall provide easements within the amenity panel/sidewalk area for bus shelters as determined at the time of FDP or site plan. Conveyance of the amenity panel/sidewalk areas to the Board of Supervisors shall occur following construction of the street and streetscape improvements and final street acceptance inspection by Fairfax County and/or VDOT subject to the stipulations in these Proffers.

Should it be determined following final street acceptance inspection that the landscape amenity panel and sidewalk areas continue to be unacceptable to VDOT and/or Fairfax County for inclusion in the right-of-way, the reservation of potential future dedication of the landscape amenity panel and sidewalk areas shall be released and the Applicant shall grant a public sidewalk and utility easement, in a form acceptable to the Office of the County Attorney. This easement shall allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicant shall provide easements within the amenity panel area for bus shelters as determined at the time of FDP or site plan.

- b. If at the time of site plan approval it is unclear whether stormwater management facilities, electric vaults or other similar facilities proposed to be located beneath the landscape amenity panel/sidewalk will be acceptable to VDOT and/or Fairfax County, the Applicant shall provide dedication measuring 18 inches from the proposed face of curb line at the time of site plan approval and shall reserve for potential future dedication the landscape amenity panel and sidewalk areas. A temporary public access easement in a form acceptable to the County Attorney shall be recorded over the reserved landscape amenity panel/sidewalk areas until such time as such areas are dedicated. The reservation area shall include easements that allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicant shall provide easements within the amenity panel/sidewalk area for bus shelters as determined at the time of FDP or site plan. Conveyance of the amenity panel/sidewalk areas to the Board of Supervisors shall occur following construction of

the street and streetscape improvements and final street acceptance inspection by Fairfax County and/or VDOT subject to the stipulations in these Proffers.

Should it be determined following final street acceptance inspection that the landscape amenity panel and sidewalk areas are not acceptable to VDOT and/or Fairfax County to be included in the right-of-way, the reservation of potential future dedication of the landscape amenity panel and sidewalk areas shall be released and the Applicant shall grant a public sidewalk and utility easement, in a form acceptable to the Office of the County Attorney. This easement shall allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicant shall provide easements within the amenity panel/sidewalk area for bus shelters as determined at the time of FDP or site plan.

- (iii) All right-of-way dedications shall be subject to advanced density credit as specified in Proffer 58.
- B. Definition of Construct. For purposes of this Proffer “construct” shall mean that the committed road improvement is open to use by the public for travel whether or not the improvement has been accepted for maintenance by VDOT.
- C. VDOT Approval. All public street improvements proposed herein shall be subject to VDOT approval and be in general conformance with the standards included in Attachment D (*Transportation Design Standards for Tysons Corner Urban Center*) of the Memorandum of Agreement approved by the Board of Supervisors on September 13, 2011, as may be amended (the “Transportation Design Standards”), subject to modifications as may be granted.
- D. Public Street. Broad Street shall be designed and constructed as a public street in general conformance with the Transportation Design Standards as may be amended (subject to modifications as may be granted). The Applicant shall design Broad Street to meet the Transportation Design Standards and be accepted by VDOT for maintenance as a public street and shall diligently work with VDOT and Fairfax County to ensure acceptance. In the event VDOT and FCDOT determine at the time of final street acceptance inspection, that Broad Street does not satisfy VDOT criteria to be accepted in to the State System or if otherwise agreed to by the County at the time of FDP approval or site plan approval, the street shall be maintained as a private street by the Applicant. A public access easement in a form acceptable to the Office of the County Attorney shall be granted for the street and appurtenant facilities associated with any private streets as well as to facilitate County transit bus, inspection and emergency access; such public access easement to become effective upon completion of the street.

In some instances, the Applicant will be constructing interim street improvements. The Applicant shall work diligently with VDOT and FCDOT to ensure that, when feasible, interim street sections can be accepted for public maintenance by VDOT.

- E. Naming. The Applicant reserves the right to provide different names for the streets than those shown on the CDP.
- F. Parking Lanes. The Applicant shall accommodate on-street parking throughout the limits of the Subject Property as generally shown on Sheets C-6 through C-8 of the CDP and as may be adjusted with FDP approval. The County and VDOT may restrict parking during peak commuting periods (typically 6:00 to 9:00 AM and 4:00 to 7:00 PM), in order to provide for turning movements to/from the public and/or private street network or to provide additional travel lanes. If requested by the County and/or VDOT, the Applicant shall install signs restricting parking.

The on-street spaces located along private streets may be part of or in addition to the total number of required parking spaces to be provided on the Subject Property. The Applicant reserves the right to restrict the use of those spaces along any private streets and/or on any future public streets prior to dedication for use as temporary or short term parking, car-sharing parking and/or similar uses, through appropriate signage or such other means as the Applicant determines appropriate. If requested by the County, the Applicant shall remove on-street parking to address street capacity needs. Prior to acceptance, the Applicant shall remove any signs the County or VDOT deems necessary to remove.

23. Greensboro Drive.

- A. The Applicant shall design and construct Greensboro Drive along the Subject Property's frontage as generally depicted on Sheets C-6 through C-8 of the CDP. Frontage improvements shall provide for relocation/reconstruction of the loading entrance serving Building E1 and the addition of a bicycle lane in each direction with the westbound bicycle lane accommodated within the existing pavement as depicted on Sheets C-6 through C-8 of the CDP and as approved by VDOT.
- B. The final design of the improvements to Greensboro Drive as generally described above shall be further refined in conjunction with the submission of FDPs and the site plan for Building E3.

24. Spring Hill Road.

- A. The Applicant shall design and construct Spring Hill Road along the Subject Property's frontage as generally depicted on Sheets C-6 through C-8 of the CDP. Frontage improvements shall provide for the typical half section depicted on Sheet C-8, which includes a raised median with two travel lanes a parking lane and bicycle lane with additional pavement/widening provided at select locations to accommodate certain turning movements and/or pavement transitions as depicted

on Sheets C-6 through C-8 of the CDP and as may be required by VDOT. The Applicant shall stripe a bicycle lane on the southbound section of Spring Hill Road (opposite the Subject Property's frontage) if the southbound bicycle lane can be accommodated within the existing pavement and is approved by VDOT.

- B. The final design of the improvements to Spring Hill Road as generally described above shall be further refined in conjunction with the submission of FDPs and site plans for Buildings E3 and/or E5 and construction shall be provided in conjunction with the development of Buildings E3 or E5, whichever occurs first.
25. Broad Street. The Applicant shall construct Broad Street from Spring Hill Road to the Subject Property's eastern property line in general accordance with the designs shown on Sheets C-6 through C-8. The Applicant shall construct portions of Broad Street as follows:
- A. From Spring Hill Road to East Street, the Applicant shall construct the ultimate section of Broad Street as shown on Sheet C-7, to accommodate a four (4) lane, undivided section with two (2) lanes in each direction, bicycle lanes in each direction and parking lanes where feasible, to align with the ultimate section of Broad Street shown on Sheets C-6 and C-6A and included in RZ 2010-PR-014D. If at the time of FDP or site plan approval for Building E3, Fairfax County or VDOT determines that the section of Broad Street adjacent to Building E3 should be different than that shown on Sheet C-7, the street design may be adjusted without requirement of a PCA, CDPA or FDPA; said adjusted design to occur within the Subject Property and the property subject to RZ 2010-PR-014A. Construction shall occur commensurate with the construction of Building E3.
 - B. From East Street to the Subject Property's eastern property line, the Applicant shall construct a two (2) lane section including one (1) lane in each direction as shown on Sheet C-7 of the CDP. It is anticipated that this section of Broad Street will be widened to its ultimate section with the future redevelopment of adjacent properties. This street section shall be constructed to match the anticipated grade of the future extension of Broad Street east of the Subject Property. Such interim construction shall occur commensurate with the construction of Building E4.
 - C. The design of the improvements to Broad Street as generally described above shall be further refined with the first and second FDPs for buildings on the Subject Property with frontage on Broad Street and final design shall be determined in conjunction with the submission of the site plans for the first and second buildings on the Subject Property with frontage on Broad Street. If at the time of FDP approval, the County in conjunction with the Applicant determines that the interim lane/sidewalk configuration should be different than that described in paragraphs A and B above, the interim improvements may be adjusted without requirement of a PCA or CDPA.
 - D. The Applicant shall provide easements necessary to access the existing parking garage located on property identified as 2012 Tax Map 29-3 ((1)) 46A from

future Broad Street should the owners of said property choose to construct such access.

- E. Following the Applicant's dedication of right-of-way for Broad Street as provided in Proffer 22A, the Applicant shall provide all necessary easements to facilitate construction of the ultimate width of Broad Street either upon demand of Fairfax County and/or VDOT or with future construction by adjoining property owners.

26. Logan Street.

- A. The Applicant shall design and construct Logan Street within the Subject Property from Broad Street to Greensboro Drive following the design as generally depicted on Sheets C-6 through C-8 of the CDP. Logan Street shall be constructed in general accordance with the typical section depicted on Sheet C-8, a Service Alley, with variable pavement/widening provided at select locations to accommodate certain turning movements and/or pavement transitions. Logan Street shall be a private street with parking permitted under the street.
- B. The final design of the improvements to Logan Street as generally described above shall be further refined in conjunction with the submission of a FDP and/or site plan for Building E4.

27. Traffic Signals.

- A. The Applicant shall complete and submit to VDOT a warrant study for a potential new traffic signal at the intersection of Broad Street and Spring Hill Road no earlier than 12 months after the issuance of the first Non-RUP associated with Building E3. If a signal(s) is warranted at that time by VDOT, the Applicant shall then design, equip and install the signal along with pedestrian crosswalks and audible pedestrian countdown signals as may be permitted and approved by VDOT, utilizing any escrowed contributions for the signal received by the County. If not warranted at that time, the Applicant shall escrow with DPWES its pro rata share of this future signal(s) to be provided by others (based on the Subject Property's proportional share of the traffic utilizing Spring Hill Road and Broad Street). However, if the signal is warranted by VDOT at any time before build-out, the Applicant shall construct the signal upon notification by the County and/or VDOT that it is warranted utilizing any escrowed contributions for the signal received by the County.
- B. All right-of-way associated with signal equipment (poles, equipment boxes, etc.) on the Subject Property not already dedicated shall be reserved for dedication in fee simple to the Board of Supervisors in accordance with Proffer 22A.
- C. If right-of-way and/or easements are needed from other properties in order to install the subject signal and the Applicant is unable to secure such off-site rights-of-way and/or easements then the Applicant shall contribute to Fairfax County its reasonably determined pro-rata share towards the future installation of said signal by others. In such event, the Applicant's obligation to construct or in any manner

further pay for such signal is deemed null and void and this Proffer of no further effect.

- D. If the County, upon request of the Applicant or on its own initiative, determines that such signal installation as proffered will be detrimental to traffic operations, the Zoning Administrator may (1) agree to a later date for completion of the traffic signal installation or (2) permit the Applicant to proceed without the signal installation.
28. Bus Shelters. Bus shelter locations shall be evaluated for the property on which a site plan has been submitted for approval for feasibility at the time of site plan approval in consultation with FCDOT and VDOT. Identified bus shelter locations shall be within the landscape amenity panel of the streetscape to the extent feasible and shall not impede convenient access to building entries. Bus shelter locations may necessitate adjustments to street tree locations and other street furnishings from that shown on the CDP which shall be accommodated without the requirement for a CDPA or FDPA.
29. Construction Traffic Management. The Applicant shall prepare and implement a construction management plan during construction of each phase, as appropriate, through its development/construction manager so as to provide safe and efficient pedestrian and vehicle circulation at all times on the Subject Property and on the public roadways adjoining the Subject Property. The management plan shall identify anticipated construction entrances, construction staging areas, construction vehicle routes and procedures for coordination with FCDOT and/or VDOT concerning construction material deliveries, lane or street closures, and/or other construction related activities to minimize disturbance on the surrounding road network.

Such plans shall be prepared by a qualified professional and submitted for review and comment to the VDOT, FCDOT and DPWES upon submission of the initial site plan for each phase.

30. Tysons Grid of Streets Transportation Fund. The Applicant shall provide a contribution of \$1000 for each residential unit and \$6.44 for each square foot of new non-residential space constructed on the Subject Property to Fairfax County for the Tysons Grid of Streets Transportation Fund in keeping with the Guidelines for the Tysons Grid of Streets Transportation Fund adopted by the Board of Supervisors on January 8, 2013, except as may be modified in these Proffers. The contribution amount due shall be adjusted for all creditable expenditures described herein.

The Applicant shall receive credits against the contributions that would otherwise be due to the Tysons Grid Fund for the following costs:

- A. Costs incurred by the Applicant in the acquisition of off-site right-of-way and associated easements, including costs borne by the Applicant associated with any Fairfax County condemnation actions, for the construction of off-site public streets and intersection improvements, and

- B. Costs incurred by the Applicant for the construction of all or a part of off-site public streets, (not including costs of the Subject Property's frontage improvements).

BICYCLE FACILITIES

31. Bicycle Circulation. In combination with the street and streetscape improvements identified in these Proffers, the Applicant shall provide pavement and, subject to County and VDOT approval, striping for on-road bicycle lanes along the Subject Property's frontages with Greensboro Drive, Spring Hill Road and Broad Street, and striping of bike lanes within the existing pavement on Greensboro Drive and Spring Hill Road opposite the Subject Property's frontages as shown on Sheet C-8 and as may be further provided in these Proffers. Such lanes shall typically be four (4) to six (6) feet in width with the final dimension determined at the time of site plan approval. Bicycle lane striping shall be subject to approval by VDOT.
32. Bicycle Parking. The Applicant shall provide bicycle racks, bike lockers, and bike storage areas throughout the Subject Property, the specific locations of which shall be determined at the time of site plan approval. The bike racks shall be inverted U-style racks or other design approved by FCDOT in consultation with OCR. The total number of bike parking/storage spaces and related facilities shall be consistent with the Fairfax County Policy and Guidelines for Bicycle Parking for each building or group of buildings as determined at site plan.

PARKING

33. Zoning Ordinance Requirements. Parking on the Subject Property shall be provided in accordance with the parking requirements in the PTC District for properties located between $\frac{1}{8}$ and $\frac{1}{4}$ mile from a Metro station as set forth in Sect. 6-509 and Article 11 of the Zoning Ordinance, and as shown on the CDP. The exact number of spaces to be provided shall be refined with approval of an FDP and determined at the time of site plan approval based on the specific uses, number of residential units and bedroom mix. If changes in the mix of uses or residential bedroom mix result in parking greater than that anticipated on the CDP, the additional parking spaces shall be accommodated within the proposed parking structures, without increasing the height or mass of the parking podia.
34. Phasing of Parking. Parking shall be provided in phases commensurate with development of the Subject Property. Parking spaces in excess of the maximum parking ratios set forth in the Ordinance may be provided in the early phases of development of the Subject Property, provided that at the build-out of the Subject Property, the maximum parking rates are not exceeded. Required parking spaces for an individual building need not be provided on the parcel on which the building is located, but shall be provided within the Subject Property.
35. Commercial Off-Street Parking. The Applicant may provide commercial off-street parking within the existing and/or expanded garage on the Subject Property. This

parking shall be in addition to the permitted parking for the proposed uses on the Subject Property.

36. Future Parking Revisions. The Applicant reserves the right to provide parking at revised rates (rates referring to the number of parking spaces provided per dwelling unit for residential uses or per square foot of GFA for Office, Hotel and Retail/Service uses) as may be permitted by a future amendment to the Zoning Ordinance. Optional use of revised rates shall not require a CDPA or PCA, provided there is no increase in the size or height of above-grade parking structures.
37. Parking Stipulations.
- A. The Applicant shall provide controlled access to new parking garages and shall ensure that the control equipment is capable of counting vehicles entering and exiting the garage.
 - B. The sale or lease rates of parking spaces shall be “unbundled” from the purchase price or lease rate of the individual dwelling units; meaning a unit’s purchase price or lease rate shall be exclusive of parking costs.

TRANSPORTATION DEMAND MANAGEMENT

38. Tysons Transportation Management Association. The Applicant shall contribute to Fairfax County funds for the establishment of a future transportation management association (the “TMA”) pursuant to paragraphs A and B hereof, which may be established for the Tysons Corner Urban Center and which all other Tysons property owners will also be required to contribute to.
- A. The Applicant shall make a one-time contribution to the establishment of this future TMA based on a participation rate of \$0.10 per gross square foot of new office uses and \$0.05 per gross square foot of new residential uses to be constructed on the Subject Property.
 - B. The contribution to the TMA shall be paid prior to site plan approval for each new residential or office building to be constructed on the Subject Property.
 - C. If subsequent to the approval of this Rezoning, a Tysons Corner Urban Center-wide TMA is approved by FCDOT and established for the purpose of administering TDM programs in the Urban Center, then the Applicant may, at its sole discretion, join or otherwise become associated with such entity and transfer some or all functions of this TDM Program to the new entity, whereupon this Proffer in whole or in part shall be void and of no further force or effect. Further, if determined by FCDOT that a proactive, private TDM program is no longer necessary, the TDM structure in this Proffer may be rendered null and void in whole or in part without the need for a PCA.
 - D. If the TMA has not been established within three (3) years after the approval of this Rezoning, this Proffer shall be null and void and with no further effect on the

Subject Property. Further, any funds contributed to the TMA by the Applicant would then be returned to the Applicant.

39. Transportation Demand Management Plan. The proffered elements of the TDM Program as set forth below are more fully described in the Spring Hill Station Transportation Demand Management Plan prepared by UrbanTrans dated August 22, 2011 (the "TDM Plan") and such revisions to the Plan as prepared by Wells + Associates, Inc. dated September 2012. It is the intent of this Proffer that the TDM Plan will adapt over time to respond to the changing transportation related circumstances of the Subject Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals as set forth in these Proffers. Accordingly, modifications, revisions, and supplements to the TDM Plan, as coordinated with FCDOT, can be made without the need for a PCA provided that the TDM Plan continues to reflect the proffered elements of the TDM Program as set forth below.

- A. Definitions. For purposes of this Proffer, "Stabilization" shall be deemed to occur one-year following issuance of the last initial RUP or Non-RUP for the final new building to be constructed on the Subject Property. "Pre-stabilization" shall be deemed to occur any time prior to Stabilization.
- B. Trip Reduction Objective. The objective of this TDM Program shall be to reduce the vehicle trips generated by residents and/or office tenants of the Subject Property (i.e., not including trips from hotel and/or retail uses), during weekday peak hours associated with the adjacent streets as more fully described in the TDM Plan, by meeting the percentage vehicle trip reductions established by the Comprehensive Plan as set forth below. These trip reduction percentages shall be multiplied by the total number of new residential and/or office vehicle trips that would be expected to be generated by the new uses developed on the Subject Property as determined by the application of the Institute of Traffic Engineers, 8th Edition, Trip Generation rates and/or equations (the "ITE Trip Generation"), and the number of trips determined by the product of such equation shall be referred to herein as the "Maximum Trips After Reduction." For purposes of this calculation, the maximum number of dwelling units or the total gross square footage of office uses proposed to be constructed in each new building on the Subject Property, as determined at the time of site plan approval for each building, shall be applied to the calculation described in the preceding sentence. The target reductions shall be as follows:

<u>Development Levels</u>	<u>Percentage Vehicle Trip Reduction</u>
Up to 65 million sq.ft. of GFA	30%
65 million sq.ft. of GFA	35%
84 million sq.ft. of GFA	40%
90 million sq.ft. of GFA	43%
96 million sq.ft. of GFA	45%
105 million sq.ft. of GFA	48%

113 million sq.ft. of GFA

50%

The trip reduction goals outlined above are predicated on the achievement of specific development levels within the Tysons Corner Urban Center as anticipated in the Comprehensive Plan. Prior to undertaking trip measurements, the TPM shall, in consultation with the County, provide a summary of the then existing (i.e., based on RUPs and Non-RUPs issued) development levels in Tysons Corner in order to determine the appropriate vehicle trip reduction goal.

If through an amendment to the Comprehensive Plan, the Board of Supervisors should subsequently adopt a goal for trip reductions that is lower than that committed to in this Proffer, then the provisions of this Proffer shall be adjusted accordingly without requiring a PCA.

C. Process of Implementation. The TDM Program shall be implemented as follows, however modifications, revisions, and supplements to the implementation process as set forth herein and coordinated with FCDOT can be made without requiring a PCA.

- (i) TDM Program Manager. If not previously appointed, the Applicant shall appoint and continuously employ, or cause to be employed, a TDM Program Manager (TPM) for Spring Hill Station. If not previously appointed, the TPM shall be appointed by the Applicant no later than sixty (60) days after the issuance of the first building permit for the first new office or residential building to be constructed on the Subject Property. The TPM's duties may be part of other duties associated with the appointee. The Applicant shall notify FCDOT and the District Supervisor in writing within 10 days of the appointment of the TPM. Thereafter the Applicant (or UOA as applicable) shall do the same within ten (10) days of any change in such appointment.
- (ii) Reporting and Budgeting. The TPM shall prepare and submit to FCDOT an initial TDM Work Plan ("TDMWP") and Annual Budget no later than 180 days after issuance of the first building permit for the first new building on the Subject Property. Every calendar year thereafter, but no later than February 1st, the TPM shall submit an Annual Report, which may revise the Annual Budget in order to incorporate any new construction on the Subject Property.

The Annual Report shall assess the success of the previous year's program, suggest modifications or enhancements to program elements and establish a budget to cover the costs of implementation of the TDM Program for the coming year. At a minimum the Annual Report shall include:

- a. Specific details associated with the monitoring and reporting requirements of the TDM Program in accordance with the TDM Plan;

- b. Submission of the results of any Person Surveys and Vehicular Trip Counts conducted on the Subject Property;
- c. A summary of the development in Spring Hill Station, as well as the then existing development levels in the Tysons Corner Urban Center;
- d. A determination of the applicable Maximum Trips After Reduction for the Subject Property;
- e. Details as to the components of the TDM Program that will be put into action that year; and
- f. Any revisions to the Annual Budget needed to implement the TDM Program for the coming year. The expected annual budget amounts are described in the TDM Plan.

The Annual Report and Budget shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report and Budget shall be deemed approved and the TDM Program elements shall be implemented. If FCDOT responds with comments on the Annual Report and Budget, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County's comments. No later than thirty (30) days after the meeting, the TPM shall submit such revisions to the TDM Program and/or Annual Budget as discussed and agreed to with FCDOT and begin implementation of the approved program and fund the approved Annual Budget.

- (iii) TDM Account. If not previously established, the Applicant, through the TPM, shall establish a separate interest bearing account with a bank or other financial institution qualified to do business in Virginia (the "TDM Account") within 30 days after approval of the Annual Budget. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes. The TDM Account shall be funded by the Applicant until the end of the Applicant Control Period and managed by the TPM; thereafter the Account shall be funded by the UOA. The TDM Account shall not be eliminated as a line item in the Subject Property's governing budget and funds in the TDM Account shall not be utilized for purposes other than to fund TDM strategies/programs and/or specific infrastructure needs as may be approved in consultation with FCDOT.

Funding of the TDM Account shall be in accordance with the Annual Budget for the TDM Program elements to be implemented in a year. In no event shall the Spring Hill Station TDM Budget overall exceed \$200,000 (this amount shall be adjusted annually as set forth in Proffer 57). The TPM shall provide written documentation to FCDOT demonstrating the

establishment of the TDM Account within ten (10) days of its establishment. The TDM Account shall be replenished annually, as necessary, thereafter following the establishment of each year's Annual Budget.

- (iv) TDM Remedy Fund. At the same time the TPM establishes and funds the TDM Account, the TPM shall establish a separate interest bearing account (referred to as the "TDM Remedy Fund") with a bank or other financial institution qualified to do business in Virginia. Funding of the TDM Remedy Fund shall be made one time on a building by building basis at the rate of \$0.40 per gross square foot of new office uses and \$0.30 per gross square foot of new residential uses on the Subject Property. Funding shall be provided by the Applicant prior to the issuance of the first initial RUP or Non-RUP for the applicable new building. This amount shall be adjusted annually as set forth in Proffer 57. Funds from the TDM Remedy Fund shall be drawn upon only for purposes of immediate need for TDM funding and may be drawn on prior to any Annual Budget adjustments as may be required.
- (v) TDM Incentive Fund. The "TDM Incentive Fund" is an account into which the Applicant, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees within Subject Property. Such contributions shall be made one time on a building by building basis at the rate of \$0.02 per gross square foot of new office and/or residential uses to be constructed on the Subject Property and provided prior to the issuance of the first initial RUP or Non-RUP for each new building.
- (vi) TDM Penalty Fund. The "TDM Penalty Fund" is an account into which the Applicant, through the TPM, shall deposit penalty payments as may be required pursuant to this Proffer for non-attainment of trip reduction goals. The County may withdraw funds from the TDM Penalty Fund for the implementation of additional TDM Program elements/incentives and/or congestion management within or proximate to the Spring Hill Station area. To secure the Applicant's obligations to make payments into the TDM Penalty Fund, the Applicant shall provide the County with a letter of credit or a cash escrow as further described below.

Prior to the issuance of the first RUP or Non-RUP for each new building on the Subject Property, the Applicant shall:

- a. Establish the TDM Penalty Fund, if not previously established by the TPM.
- b. Deliver to the County a clean, irrevocable letter of credit issued by a banking institution approved by the County or escrow cash in an interest-bearing account with an escrow agreement acceptable to

DPWES to secure the Applicant's obligations to make payments into the TDM Penalty Fund (the "Letter(s) of Credit or Cash Escrow(s)"). The Letter(s) of Credit or Cash Escrow(s) shall be issued in an amount equal to \$0.10 per gross square foot of new office uses and/or \$0.05 per gross square foot of new residential uses shown on the approved site plan for each new building on the Subject Property. Until the Letter(s) of Credit or Cash Escrow(s) has been posted, the figures in the preceding sentence shall be adjusted annually as set forth in Proffer 57. Once the Letter(s) of Credit or Cash Escrow(s) has been posted, there shall be no further adjustments or increases in the amount thereof. The Letter(s) of Credit or Cash Escrow(s) shall name the County as the beneficiary and shall permit partial draws or a full draw. The foregoing stated amount(s) of the Letter(s) of Credit or Cash Escrow(s) shall be reduced by the sum of any and all previous draws under the Letter(s) of Credit or Cash Escrow(s) and payments by the Applicant (or the TPM) into the TDM Penalty Fund as provided below.

- (vii) Monitoring. The Applicant shall verify that the proffered trip reduction goals are being met through the completion of Person Surveys and Vehicular Trip Counts of residential and/or office uses and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Trip Counts shall be provided to FCDOT as part of the Annual Report. Person Surveys and Vehicular Trip Counts shall be collected for the Subject Property beginning one year following issuance of the final initial RUP or Non-RUP for the first new office or residential building to be constructed on the Subject Property. Person Surveys shall be conducted every three (3) years and Vehicular Trip Counts shall be conducted annually until the results of three (3) consecutive traffic counts collected upon Stabilization show that the applicable trip reduction goals have been met. Thereafter, Person Surveys and Vehicular Trip Counts shall be conducted every five (5) years. Notwithstanding the aforementioned, at any time prior to or after Stabilization, FCDOT may suspend or relieve the Applicant of annual Vehicular Traffic Counts or triennial Person Surveys if conditions warrant.

D. Remedies and Penalties.

- (i) Prior to Stabilization. If Prior to Stabilization the TDM Program monitoring reveals that the Maximum Trips After Reduction for the Subject Property is exceeded, the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be, but not limited to those, identified in the TDM Plan and Annual Report.

Such remedial measures shall be funded by the TDM Remedy Fund as may be necessary and based on the expenditure program that follows:

<u>Trip Goals Exceeded</u>	<u>Remedy Expenditure</u>
Up to 1%	No Remedy needed
1.1% to 3%	1% of Remedy Fund
3.1% to 6%	2% of Remedy Fund
6.1% to 10%	4% of Remedy Fund
Over 10%	8% of Remedy Fund

If the results of the Vehicular Trip Counts conducted show that the trip reduction goals have been met on the Subject Property for three (3) consecutive years in accordance with the goals outlined in the table below, then a portion of the Remedy Fund as outlined in those same tables below shall be released to the building owners through the TPM. The amount released shall be relative to the amount contributed by those buildings constructed and occupied at the time Vehicular Trip Counts were collected. Any funds remaining in the Remedy Fund after such release shall be carried over to the next consecutive three (3) year period.

Up to 65,000,000 Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 Years By:	Cumulative % Remedy Fund Returned
0.0%-4.9%	30%
5.0% - 10%	50%
10.1% - 15%	65%
15.1% - 18%	80%
18.1 - 20%	90%
>20%	100%

65-84,000,000 Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 Years By:	Cumulative % Remedy Fund Returned
0.0%-4.9%	50%
5% - 10%	65%
10.1% - 13%	80%
13.1% - 15%	90%
>15%	100%

84-90,000,000 Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 Years By:	Cumulative % Remedy Fund Returned
0.0%-4.9%	65%
5% - 8%	80%
8.1% - 10%	90%
>10%	100%

90-96,000,000 Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 Years By:	Cumulative % Remedy Fund Returned
0.0%-4.9%	80%
5% - 8%	90%
>8%	100%

96-113,000,000 Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 Years By:	Cumulative % Remedy Fund Returned
0.0%-4.9%	90%
>5%	100%

113,000,000+ Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 Years By:	Cumulative % Remedy Fund Returned
>0%	100%

There is no requirement to replenish the TDM Remedy Fund at any time. Any cash left in the TDM Remedy Fund shall be released to the Applicant once three (3) consecutive annual Vehicular Trip Counts conducted show that the Maximum Trips After Reduction have not been exceeded.

- (ii) Following Stabilization. If the TDM Program monitoring reveals that the Maximum Trips After Reduction for the Subject Property is exceeded, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the TDM Plan and Annual Report and funded by the TDM Remedy Fund as may be necessary, commensurate with the extent of deviation from the Maximum Trips After Reduction goal as set forth in accordance with the expenditure schedule outlined above.

If the results of the Vehicular Trip Counts conducted upon-Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals outlined on the table above, then any remaining Remedy Funds shall be released back to the building owners through the TPM.

If despite the implementation of remedial efforts, the applicable Maximum Trips After Reduction (based on the existing development levels in the Tysons Corner Urban Center as described in this Proffer are still exceeded after three (3) consecutive years, then, in addition to addressing further remedial measures as set forth in this Proffer, the TPM shall be assessed a penalty according to the following:

Exceeded Trip Goals	Penalty
Less than 1%	No Penalty Due
1% to 3%	5% of Penalty Fund
3.1% to 6%	10% of Penalty Fund
6.1% to 10%	15% of Penalty Fund
Over 10%	20% of Penalty Fund

Penalties may be incurred in subsequent Stabilization years when the applicable Maximum Trips After Reduction for the Subject Property continue to be exceeded and provided there are funds still available in the Penalty Fund.

The Applicant through the TPM shall make the payments required by this Proffer into the TDM Penalty Fund upon written demand by the County, and the County shall be authorized to withdraw the amounts on deposit in the TDM Penalty Fund. If the TPM fails to make the required penalty payment to the TDM Penalty Fund within thirty (30) days after written

demand, the County shall have the ability to withdraw the penalty amount directly from the Letter(s) of Credit or Cash Escrow(s).

The maximum amount of penalties associated with the Subject Property, and the maximum amount the TPM shall ever be required to pay pursuant to the penalty provisions of this Proffer, including prior to and after Stabilization, shall not in the aggregate exceed the amount of the Letter(s) of Credit or Cash Escrow(s) determined and computed pursuant to the provisions of this Proffer. There is no requirement to replenish the TDM Penalty Fund at any time. The Letter(s) of Credit and/or any cash left in the Cash Escrow(s) shall be released to the Applicant through the TPM once three (3) consecutive Vehicular Trip Counts conducted after Stabilization show that the Maximum Trips After Reduction for the Subject Property have not been exceeded.

- E. Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable vehicle trip reduction goals are continuing to be met, then FCDOT may require the TPM to conduct additional Vehicular Trip Counts (pursuant to the methodology set forth in the TDM Plan) within 90 days to determine whether in fact such objectives are being met. If any such Vehicular Trip Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.
- F. Review of Trip Reduction Goals. At any time and concurrent with remedial actions and/or the payment of penalties as outlined herein, the TPM may request that FCDOT review the vehicle trip reduction goals established for the Subject Property and set a revised lower goal for the Subject Property consistent with the results of such surveys and traffic counts provided for by this Proffer. In the event a revised lower goal is established for the Subject Property, the Maximum Trips After Reduction shall be revised accordingly for the subsequent review period without the need for a PCA.
- G. Continuing Implementation. The TPM (through the UOA) shall bear sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer at the end of the Applicant Control Period. The TPM shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.
- H. Notice to Owners. All owners of the Subject Property shall be advised of the TDM Program set forth in this Proffer. The then current owner shall advise all successor owners and/or developers of their funding obligations pursuant to the requirements of this Proffer prior to purchase and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), shall be included in all initial and subsequent purchase documents.

- I. Enforcement. If the TPM fails to submit a report to FCDOT within the time frames required by this Proffer, the TPM shall have sixty (60) days within which to cure such violation. If after such sixty (60) day period the TPM has not submitted the delinquent report, then the TPM (or UOA as applicable) shall be subject to a penalty of \$100 per day up to a maximum of \$36,500 per incident until such time as the report is submitted to FCDOT. Such penalty shall be paid to Fairfax County to be used for transit, transportation, or congestion management improvements within the vicinity of the Subject Property.
40. Transportation Demand Management for Retail/Hotel Uses. As provided in the above Proffer, certain components of the TDM Plan are applicable to and would benefit the retail and/or hotel uses proposed on the Subject Property. Therefore, the Applicant will provide an additional TDM program tailored to specifically serve any Retail and/or Hotel Uses (the "Retail/Hotel TDM Program") which may be developed on the Subject Property. In no event will remedies and/or penalties be assessed against any such Retail and/or Hotel Uses.
- A. Goals of the Retail/Hotel TDM Program. Because tenants of the Retail stores and Hotels and their employees work hours that are atypical of the standard work day, these tenants and their employees do not necessarily travel to and from the Subject Property during Peak Hours. Given this, the Retail/Hotel TDM Program shall encourage Retail tenants, Hotel Guests and the Retail/Hotel employees to utilize transit, carpools, walking, biking and other non-Single Occupancy Vehicle ("non-SOV") modes of transportation to travel to and from the Subject Property rather than focusing on the specific trip reductions during the weekday AM or PM Peak Hours.
 - B. Components of the Retail/Hotel TDM Program. The Retail/Hotel TDM Program shall include, at a minimum, the components applicable to the Subject Property that are described in this Proffer and the additional components provided below. These additional components may be subsequently amended by mutual agreement between the Applicant and FCDOT. All amendments to the components of the Retail/Hotel TDM Program contained in this Proffer shall be approved by FCDOT and will not require a PCA.
 - C. Employee/Tenant Meetings. The TPM shall hold, at a minimum, an annual TDM meeting with the Retail store tenants and Hotel Managers, and their respective employees, to review the available transit options, changes in transit service and other relevant transit-related topics. Based on these meetings, the TPM shall work with Fairfax County to consider changes to the relevant services, such as changes to bus schedules, if such changes would provide better service to the Subject Property tenants and their employees.
 - D. Regional TDM Programs. The TPM shall make information available to Retail store tenants, Hotel Guests and the Retail/Hotel employees about regional TDM programs that promote alternative commuting options. This shall include

information on vanpools, carpools, guaranteed ride home and other programs offered by organizations in the Washington, D.C. Metropolitan Area.

- E. Retail/Hotel TDM Program Participation Outreach. The TPM shall endeavor in good faith to encourage participation by Retail store tenants and Hotel Management in the Retail/Hotel TDM Program, including the encouragement of a financial participation by such tenants through their direct offering of transit benefit programs and transit incentives to their employees. The TPM shall include a report to the County with respect to the activities described in the TDM Proffer as part of the Annual Report to be filed with the County. This report shall include detailed accounts of the outreach efforts and the feedback and response from the tenants.
41. Existing Greensboro Corporate Centre Office Uses. Certain components of the TDM Plan are applicable to and would benefit the existing office uses on the Subject Property. The TPM shall make available information on those components to any existing occupied office use which is located on the Subject Property. Such uses shall not be subject to monitoring nor will remedies and penalties be assessed against those existing office uses.
42. Intelligent Transportation Systems. To optimize safe and efficient travel in Tysons, the Applicant shall incorporate and maintain a system that provides pertinent traffic and transit information that allows users to make informed travel decisions. This information shall be provided at initial occupancy of each building. The delivery of this information shall be made convenient for building occupants and visitors, such as via computer, cell phone, monitors, or similar technology. Such devices shall provide, but not be limited to, information on the following:
- A. Traffic conditions, road hazards, construction work zones, and road detours.
 - B. Arrival times and delays on Metrorail, Tysons Circulator, and area bus routes.
 - C. Real time parking conditions and guidance to current on-site parking vacancies.
 - D. Bus stops pre-wired for real-time arrival/departures information.

The Applicant shall work with FCDOT and/or the Tysons Partnership to identify sources and facilitate electronic transmittal of data. Furthermore, the Applicant shall participate in efforts to implement any future dynamic traffic management program for the Tysons area.

AFFORDABLE/WORKFORCE HOUSING

43. Affordable Dwelling Units. If required by the provisions of Part 8 of Article 2 of the Zoning Ordinance, Affordable Dwelling Units ("ADUs") shall be provided pursuant to said regulations unless modified by the ADU Advisory Board.
44. Workforce Dwelling Units. In addition to any ADUs that may be required pursuant to these Proffers, the Applicant shall also provide for-sale and/or rental housing units on the

Subject Property in accordance with the Board of Supervisors' Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines dated June 22, 2010. Workforce Dwelling Units ("WDUs") shall be provided such that the total number of ADUs, if any, plus the total number of WDUs results in not less than twenty percent (20%) of the total residential units constructed as part of the Proposed Development, thereby treating all of the Subject Property as if it were located within ¼ mile of the Metro Station. The 20% applies to the total number of dwelling units to be constructed on the Subject Property. If ADUs are provided in the development, both the ADUs and the ADU bonus units shall be deducted from the total number of dwelling units on which the WDU calculation is based.

The WDUs generated by each residential building on the Subject Property shall be provided within said building, however the Applicant reserves the right to consolidate the WDUs into one of the buildings with the build-out of the Subject Property and thereby increase the number of WDU units in one of the buildings beyond twenty percent (20%) with a corresponding decrease in the number of WDU units in the other building. The WDUs in each building shall have a bedroom mix similar to that provided in the market rate units in such building. Additionally, in the event that parking spaces are guaranteed to be made available for lease to individual market rate dwelling units, at least one (1) parking space shall be made available for lease by each ADU and/or WDU in the development.

Notwithstanding the foregoing, should the Board of Supervisors' policies related Workforce Dwelling Units in Tysons Corner be amended, the Applicant reserves the right, at its sole discretion, to opt in to the new policies, in part or in whole, without the need for a PCA and, if the Applicant so opts into any such new policies, the provisions of this Proffer which relate to the new policies of the Board of Supervisors which Applicant has elected to opt into shall no longer be effective. Furthermore, the Applicant reserves the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the WDUs following approval of this Application. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the WDUs shall be administered solely in accordance with such an agreement and the provisions of this Proffer as it applies to WDUs shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

45. Office and Non-Residential Contributions to Affordable/Workforce Housing. For new office and other non-residential uses on the Subject Property, the Applicant shall select, within its sole discretion, one of the following two options for contributing toward the provision of affordable and/or workforce housing within Tysons Corner. These contributions shall be made to the Board, be deposited in a specific fund to be used solely for this purpose within Tysons Corner and shall be payable at the time of issuance of the first Non-RUP for the new office or other non-residential buildings on the Subject Property. The options shall consist of either (i) a one-time contribution of \$3.00 for each

square foot of GFA of new office or non-residential use, or (ii) an annual contribution of \$0.25 for each square foot of GFA of new office or non-residential use continuing for a total of 16 years. Under either option, GFA associated with Retail/Service uses and public uses shall be excluded from the contribution.

PARK AND RECREATIONAL FACILITIES

46. Public Park Space. The Applicant shall provide a park on the Subject Property identified as Urban Park 9 on the CDP. Urban Park 9, located at the corner of Logan Street and Broad Street, is approximately 19,300 square feet in area. This park/plaza shall be provided with the construction of Building E4 and shall include hardscaping, landscaping, an open lawn panel, focal element and outdoor seating, as generally shown on the CDP, with more specific details provided at the time of FDP approval. Additional or substitute recreational facilities to those listed may be approved with the FDP provided such facilities result in an equivalent or enhanced quality of recreational opportunities. Should Building E4 be developed as a residential building, the Applicant shall provide an active recreational facility in Urban Park 9, to be determined at FDP.

The Applicant shall record a public access easement over Urban Park 9 to ensure the park will be open to the general public for periods of times consistent with traditional Fairfax County parks, or other times as agreed to with the FCPA, subject to usual and customary rules and regulations. The Applicant shall provide for perpetual private maintenance of Urban Park 9. A wayfinding and signage system shall be developed at the time of FDP and site plan approval and installed by the Applicant to ensure the park can easily be identified. The Applicant shall coordinate with FCPA to ensure Urban Park 9 is included on the FCPA's website to encourage public use

47. Private Park Space. The Applicant shall enhance and expand existing private park space located between existing Buildings E1 and E2 and adjacent to future Building E3 as shown on Sheet L-8 of the CDP. This area of approximately 41,500 square feet shall include hardscaping, landscaping, a central plaza with the potential for a movable stage, pathways and outdoor tables and seating. Specific details shall be provided with the FDP for Building E3, and additional or substitute recreational facilities to those listed may be approved with the FDP provided such facilities result in an equivalent or enhanced quality of recreational opportunities. The private park enhancements shall be constructed commensurate with the construction of Buildings E3.
48. Private Amenities and Recreation Facilities for Residents. The Applicant shall provide on-site recreational facilities for the future residents of the Subject Property. Pursuant to Par. 2 of Sect. 6-110 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall expend a minimum of \$1700 per market-rate and workforce residential unit on such recreation facilities. Prior to final bond release for the residential building constructed on the Subject Property, the balance of any funds not expended on-site, as determined by DPWES shall be contributed to the FCPA for the provision of recreation facilities serving Tysons Corner.

The specific facilities and amenities to be provided for the residential building shall be determined at the time of FDP approval. Amenities to be provided may include but not be limited to:

- A. Private exterior recreational area/courtyard on the upper level of the parking podium with seating areas, specialty landscaping, lawn and/or shaded areas and hardscape areas, and may also include a volleyball court, putting green, bocci court, boules court, board game tables, or similar recreational facility as may be approved with the FDP;
 - B. Private exterior recreational area on the roof or podium level with a swimming pool, lounge deck, and shade structure;
 - C. Interior fitness center, a minimum of 1,000 square feet in size, furnished with exercise equipment such as stationary bikes, treadmills, weight machines, free weights, etc., but not necessarily staffing; and
 - D. Clubroom for resident gatherings and/or media/entertainment center.
49. Athletic Field Construction. To address the Comprehensive Plan's recommendations regarding the provision of athletic fields in Tysons, the Applicant shall contribute to the cost of constructing an athletic field within the FCPA's Raglan Road Park (the "Raglan Road Park Field"). The Applicant shall contribute \$0.75 per new square foot of GFA constructed on the Subject Property for the construction of the Raglan Road Park Field. The contributions shall be payable at the time of issuance of the first RUP or Non-RUP as applicable, for each new building on the Subject Property.

In the event, the Raglan Road Park Field is not constructed, said contributions to the FCPA shall be utilized to support the provision of active recreation facilities either through land acquisition or facility development in the Tysons area.

PUBLIC FACILITIES

50. Fire and Rescue Station Contribution. The Applicant shall contribute \$2.00 per new square foot of GFA constructed on the Subject Property for the construction of a new Fairfax County Fire and Rescue Station (the "New Station") on property subject to RZ 2010-PR-014-B. The contributions shall be payable at the time of issuance of the first RUP or Non-RUP as applicable, for each new building on the Subject Property. Any such contributions due prior to delivery of the New Station to Fairfax County shall be paid by the Applicant to Fairfax County. Any such contributions following the delivery of the New Station to Fairfax County shall be paid by the Applicant directly to the applicant of RZ 2010-PR-014-B, or its successors or assigns. In this instance, the Applicant shall demonstrate to DPZ and DPWES, as applicable, that such contribution has been made prior to the issuance of the first RUP or Non-RUP for each new building.
51. Public School Contribution. Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on September 9, 2002, and revised July,

2006, the Applicant shall contribute \$9,378 per expected student (based on ratios of 0.087 student per multi-family residential unit and 0.44 student per single-family attached residential unit) to the Fairfax County School Board to be utilized for capital improvements to schools that serve the Tysons Corner area. Such contribution shall be made on or before the issuance of the first RUP for each residential building on the Subject Property and shall be based on the actual number of dwelling units built in each building.

If prior to site plan approval for the respective residential buildings, the County should modify, on a countywide basis, the expected ratio of students per subject multi-family unit or the amount of the contribution per student, the amount of the contribution shall be modified for that building to reflect the then current ratio and/or contribution.

52. Arts and Entertainment. The Applicant shall coordinate with the Fairfax Arts Council to identify art related uses or artworks that may be appropriate to include in the Proposed Development. Such uses may, at the Applicant's sole discretion, be included on an interim or permanent basis.

STORMWATER MANAGEMENT

53. Stormwater Management. Stormwater Management (SWM) measures for the Subject Property shall be designed to protect receiving waters downstream of Tysons Corner by reducing runoff from impervious surfaces using a progressive approach. This progressive approach shall, to the maximum extent practicable, strive to retain on-site and/or reuse the first inch of rainfall. Proposed SWM and Best Management Practice (BMP) facilities shall follow a tiered approach as identified by the County which may include infiltration facilities (where applicable), rainwater harvesting/detention vaults, runoff reducing and other innovative BMPs. The specific SWM Facilities shall be determined at the time of FDP approval and subsequent Site Plan approval, and as may be approved by the DPWES. Each FDP shall include the location and preliminary design of the SWM Facilities including the access points to underground vaults. Access points, detailed at the time of FDP, will be located outside of the landscape amenity panel and sidewalk zone of the streetscape.

Plans shall make use of certain LID techniques that will aid in runoff volume reduction and promote reuse throughout the site. As a part of the LID techniques proposed, the Applicant shall provide green roofs both intensive and/or extensive. Other LID techniques may include, but not be limited to, tree box filters, pervious hardscapes/streetscapes, and stormwater reuse for landscape irrigation and air conditioning unit makeup water.

At the time of each FDP and Site Plan submission, the Applicant shall provide calculations showing the proposed volume reductions and shall work cooperatively with DPWES and DPZ to ensure that the first inch of rainfall is retained or reused to the maximum extent practicable. This requirement may be met on an individual building basis or based upon the total area of the Subject Property.

Additionally, the SWM Facilities shall be designed to accommodate not just the pre-developed (existing) peak release rates, but also strive to preserve and/or improve the pre-developed (existing) runoff volumes as contemplated within current LEED requirements, depending on the existing impervious condition. The above noted SWM Facilities shall be designed to (where applicable) meet the requirements of LEED 6.1 and 6.2 for each building/phase of the development based upon the LEED Boundary identified with each building/phase.

While it is anticipated that compliance with the Comprehensive Plan goal of retaining and/or reusing the first inch of rainfall will be confirmed at FDP and Site Plan utilizing the currently proposed retention credits (up to 1.4") identified by Fairfax County as part of their stormwater spreadsheet, the Applicant reserves the right to utilize any combination of LIDs (existing and future) measures to meet this goal, subject to the review and approval of DPWES.

It is further understood that seasonal variations in reuse water demand will create fluctuations in the draw down period, and as such, the stormwater system will be designed (to the extent practicable) to not exceed 10 days of storage. If storage time exceeds 10 days, the Applicant shall have the right to discharge excess volumes off site at release rates as allowed by the PFM.

It is understood that interim or temporary SWM and BMP measures may be required during any interim phase of the Proposed Development.

MISCELLANEOUS

54. Zoning Administrator Consideration. Notwithstanding the foregoing, upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicant's control, the required transportation, publicly accessible park areas, athletic field improvements, or other proffered improvements have been delayed (due to, but not limited to an inability to secure necessary permission for utility relocations and/or VDOT approval for traffic signals, necessary easements, site plan approval, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of these improvement(s).
55. Condemnation Procedures. Should the development of the Subject Property in accordance with these Proffers require acquisition of property, rights-of-way and/or easements from parcels that are not part of the Subject Property (collectively referred to as the "Off-Site Parcels"). The Applicant shall use its good faith efforts and offer a reasonable fair market value for said property, right-of-way and/or easements. In the event the Applicant is not able to acquire the property, rights-of way and/or easements from the Off-Site Parcels necessary to fulfill the obligations described herein, the Applicant shall demonstrate its efforts in writing and submit a written request to Fairfax County to acquire the property, rights-of way and easements by means of its condemnation powers.

In conjunction with any such request, the Applicant shall forward to the appropriate County agency: (a) plat, plans and profiles showing the necessary property, rights-of way and/or easements to be acquired; (b) an appraisal, prepared by a MAI (Member of the Appraisal Institute) independent appraiser approved by the County, of the value of the property, rights-of way and/or easements to be acquired and of all damages, if any, to the residue of the Off-Site Parcel; (c) a sixty (60) year title search certificate of the Off-Site Parcel from which the property, rights-of way and/or easement is to be acquired; and (d) cash in an amount equal to appraised value of the property, rights-of-way and easements and of all damages to the residue of the Off-Site Parcel; and (e) a copy of written offers and counteroffers and evidence of owners refusal of such offers and counteroffers. In the event the Owner of the Off-Site Parcel is awarded more than the appraised value of the Off-Site Parcel and of the damages to the residue in a condemnation suit, the Applicant shall pay the amount of the award in excess of cash amount to the County within fifteen (15) calendar days of said award. It is understood that the Applicant upon demand shall pay all other costs incurred by the County in acquiring the easements to the County.

Prior to and during any potential condemnation proceedings, the Applicant, its successors and assigns, shall be permitted, at its own risk, to submit, process and receive approval of the Site Plan and related subdivision plat(s), easement plats, development permits, building plan approvals and building permits for other portions of the Subject Property.

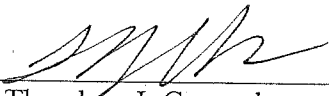
56. Metrorail Tax District Buyout for Certain Residential Uses. At least sixty days prior to recording any residential condominium documents for portions of the Subject Property located within the now existing Phase I Dulles Rail Transportation Improvement District (the "Phase I District"), the Applicant shall provide a written notice to the Director of the Real Estate Division of the Fairfax County Department of Tax Administration advising that the Applicant intends to record condominium documents for that portion of the Subject Property. Prior to recording the condominium documents, the Applicant shall pay to Fairfax County a sum equal to the then-present value of Phase I District taxes based on the use of that portion of the Subject Property subject to the condominium prior to this Rezoning that will be lost as a result of recording the condominium documents, in accordance with a formula approved by the Fairfax County Board of Supervisors.
57. Adjustment in Contribution Amounts. All monetary contributions specified in these Proffers, with the exception of the contributions to the Tysons Grid Fund and public schools, shall adjust on a yearly basis from the base month of January 2013 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers [1982-84=100] (not seasonally adjusted) ("CPI-U"), both as permitted by VA. Code Ann. Section 15.2-2303.3.
58. Advanced Density Credit. Advanced density credit is reserved consistent with the provisions of Par. 4 of Sect. 2-308 of the Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT.
59. Tysons Partnership. The Applicant and successors shall become a member in the Tysons Partnership, or its residential equivalent.

60. Severability. Pursuant to Section 18-204 of the Zoning Ordinance, any portion of the Subject Property may be the subject of a PCA, Special Exception (“SE”), Special Permit (“SP”), or FDPA without joinder and/or consent of the owners of the other portions of the Subject Property, provided that such PCA, SE, SP or FDPA does not materially adversely affect the other phases. Previously approved zoning applications applicable to the balance of the Subject Property that is not the subject of such a PCA, SE, SP or FDPA shall otherwise remain in full force and effect.
61. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and their successors and assigns. Each reference to “Applicant” in this proffer statement shall include within its meaning and shall be binding upon Applicant’s successor(s) in interest and/or the owners from time to time of any portion of the Subject Property during the period of their ownership.
62. Counterparts. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES BEGIN ON NEXT PAGE]

APPLICANT/AGENT FOR OWNER OF
TAX MAP 29-3 ((1)) 63C

GEORGELAS GROUP LLC

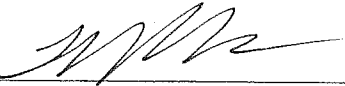

By: Theodore J. Georgelas
Its: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 29-3 ((1)) 63C

GREENSBORO CENTER LIMITED PARTNERSHIP

By: Greensboro Center's, Inc., its general partner

A handwritten signature in dark ink, appearing to read 'TJ Georgelas', is written over a horizontal line.

By: Theodore J. Georgelas

Its: President

[SIGNATURES END]